

DATED

7 OCTOBER

2013

W N DEVELOPMENTS LIMITED (1)

ADUR DISTRICT COUNCIL (2)

WEST SUSSEX COUNTY COUNCIL (3)

SUSSEX YACHT CLUB LIMITED (4)

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AGREEMENT UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING ACT 1990  
AND OTHER POWERS  
LAND AT FORMER PARCELFORCE SITE, 79/81 BRIGHTON ROAD  
SHOREHAM-BY-SEA, BN43 6RE

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THIS **AGREEMENT** is dated **7 OCTOBER** 2013 and is made between:

1. **W N DEVELOPMENTS LIMITED** (registered in England and Wales with Company Number 02101798) whose registered office is 13 College Road Bedford MK42 9PL ("the Owner")
2. **ADUR DISTRICT COUNCIL** of Civic Centre, Ham Road, Shoreham-by-Sea, West Sussex BN43 6PR ("the Council")
3. **WEST SUSSEX COUNTY COUNCIL** of County Hall, Chichester, West Sussex, PO19 1RQ ("the County Council")
4. **SUSSEX YACHT CLUB LIMITED** (registered in England and Wales with Company Number 00215905) whose registered office is 85/89 Brighton Road Shoreham-By-Sea West Sussex BN43 6RE ("Yacht Club")

1. **Background**

- 1.1 The Owner is the registered proprietor of the Site under title numbers WSX54850 and WSX322434 of land known as the Former Parcellforce site at 79-81 Brighton Road, Shoreham-By-Sea, BN43 6RE.
- 1.2 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and the local housing authority for the area the Site is situated.
- 1.3 The County Council is the highways authority and the education authority and the authority responsible for the provision of the fire service and the library service
- 1.4 The Owner has by planning application number AWDM/0501/12 applied to the Council for planning permission to develop the Site.
- 1.5 The Council has resolved to grant Permission subject to the completion of this Agreement.
- 1.6 The Yacht Club is the registered proprietor of the land known as Tarmount Hard comprised within title number WSX225238 and shown edged red on the Tarmount Hard Plan

## 2. Interpretation

In this Agreement:

- 2.1 Words importing the masculine include the feminine and vice versa.
- 2.2 Words importing the singular include the plural and vice versa.
- 2.3 Words importing persons include companies and corporations and vice versa.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually.
- 2.5 Any reference to a clause paragraph or schedule or plan is one in, to or attached to this Agreement.
- 2.6 Any reference to a colour or letter is to be on the plans attached to this Agreement.
- 2.7 In the absence of contrary provision any reference to a statute includes any statutory modification extension or re-enactment of it for the time being in force and every statutory instrument order plan regulation permission direction, specification for the time being made issued or given under that statute or deriving validity from it.
- 2.8 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council and County Council the successor to their respective statutory functions as referred to in clause 1.2 and 1.3.
- 2.9 Insofar as any clause or clauses of this Agreement is or are found (for whatever reason) to be invalid illegal or unenforceable then such illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement
- 2.10 In this Agreement unless the context otherwise requires:

‘the Act’ means the Town and Country Planning Act 1990 (as amended)

‘Affordable Housing’ means housing provided to people who are unable to resolve their housing needs in the private housing market due to the relationship between local housing cost and incomes

'Affordable Housing Units' means 36 dwellings to be constructed in accordance with Housing Corporation Design and Quality Standards 2007 (and any variation to those standard that may be agreed in writing with the Council) pursuant to the Permission not being Open Market Dwellings and to be provided on the basis set out in clause 6 and Schedule 3 of this Agreement.

'agreed' or 'approved' means agreed or approved in writing and given for the purpose of this Agreement

Air Quality Monitoring Contribution means the sum of Four Thousand Five Hundred Pounds (£4,500) payable in accordance with clause 8.1(b)

'the Application' means the planning application number AWDM/0501/12 made by the Owner to develop the Site by demolishing the existing warehouse to facilitate new mixed use development of 132 dwellings (comprising 32 x 1 bed flats 87 x 2 bed flats and 13 x 3 bed flats of which 27% are Affordable Housing Units) a 1265 sqm foodstore and 121 sqm ancillary commercial floorspace in a 5 – 7 storey building with 150 parking spaces plus cycle spaces at basement level and at the front of the Site new vehicular access to serve the foodstore from Brighton Road access to residential units via Surry Hard improvements to the existing river wall public hard and boathouse and new landscaping

'Chargee' means any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925

Chargee's Duty means the tasks and duties set out in Clause 6.5

'Commencement of Development' means the date on which the first Material Operation forming part of the Development begins to be carried out

'the Contributions' means the Education Contribution, Public Art Contribution, Library Contribution, Fire and Rescue Service Contribution, Highway Works Contribution and Air Quality Monitoring Contribution or any of them as the case may be.

'the Development' means the development of the Site substantially in accordance with the Permission.

'Education Contribution' means the sum of One Hundred and Forty Four Thousand, Five Hundred and Three Pounds (£144,503) (comprising £62,060 towards primary education, £66,796 towards secondary education and £15,647 towards sixth form education)

'Fire and Rescue' means the Shoreham-on-Sea Fire and Rescue Service.

'Fire and Rescue Contribution' means the sum of Two Thousand Two Hundred and Fifty Seven Pounds (£2,257)

Highway Works Contribution means the sum of Eighty Seven Thousand and Five Hundred Pounds (£87,500.00)

'Index Linked' means index linked in accordance with the provisions of Clause 16.

'Library Contribution' means the sum of Twenty One Thousand, Five Hundred and Seventy Pounds (£21,570.00)

'Management Company' means a management company established by the Owner limited by guarantee established to maintain and operate the on Site flood defences including the flood defence wall and flood gates and the Public Realm Areas

'Material Operation' means any operation as defined in section 56(4) of the Act but not including such operations as site remediation, archaeological investigation, demolition, site clearance, site preparation, diversion and laying of services, the erection of fences and hoardings and the construction of access or service roads.

'Nomination Agreement' means an agreement between a Registered Social Landlord and the Council as housing authority containing arrangements for the initial and subsequent selection of tenants/occupiers of the Affordable Housing from either the Council's housing register or other agreed sources

'Open Market Dwellings' means those dwellings to be constructed pursuant to the Permission excluding the Affordable Housing Units.

'Payment Notice' means a payment notice in the form attached at Schedule 1.

'Permission' means a planning permission granted in accordance with the Application and substantially in the form of the draft permission at Schedule 2.

'Plan' means the plan attached to this Agreement.

Protected Tenant means any tenant who;

(a) has exercised the right to acquire pursuant to any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit

(c) is a tenant of an Affordable Housing Unit who has subsequently purchased from the Registered Social Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

Public Art Contribution means the sum of Five Thousand Pounds (£5,000)

'Public Realm Areas' means the public waterside park shown on drawing number 100m shaded in green

'Registered Social Landlord' means a social housing provider registered with the Regulator being a not for profit company formerly registered with the Regulator to provide social housing and not removed from the Regulator's register

'Regulator' means the body responsible for the regulation of social housing providers in England being the Homes and Communities Agency or their agent or successor in title in relation to this function

'Relevant Period' means ten (10) years commencing on the date of receipt of the relevant Contribution by the Council or County Council as the case maybe.

'Shared Ownership Units' means units disposed of by the Registered Social Landlord by way of a shared ownership lease being a lease enabling the leaseholder to purchase an initial percentage of the market value of the unit and from time to time purchase an additional percentage of the market value up to a maximum of 100%.

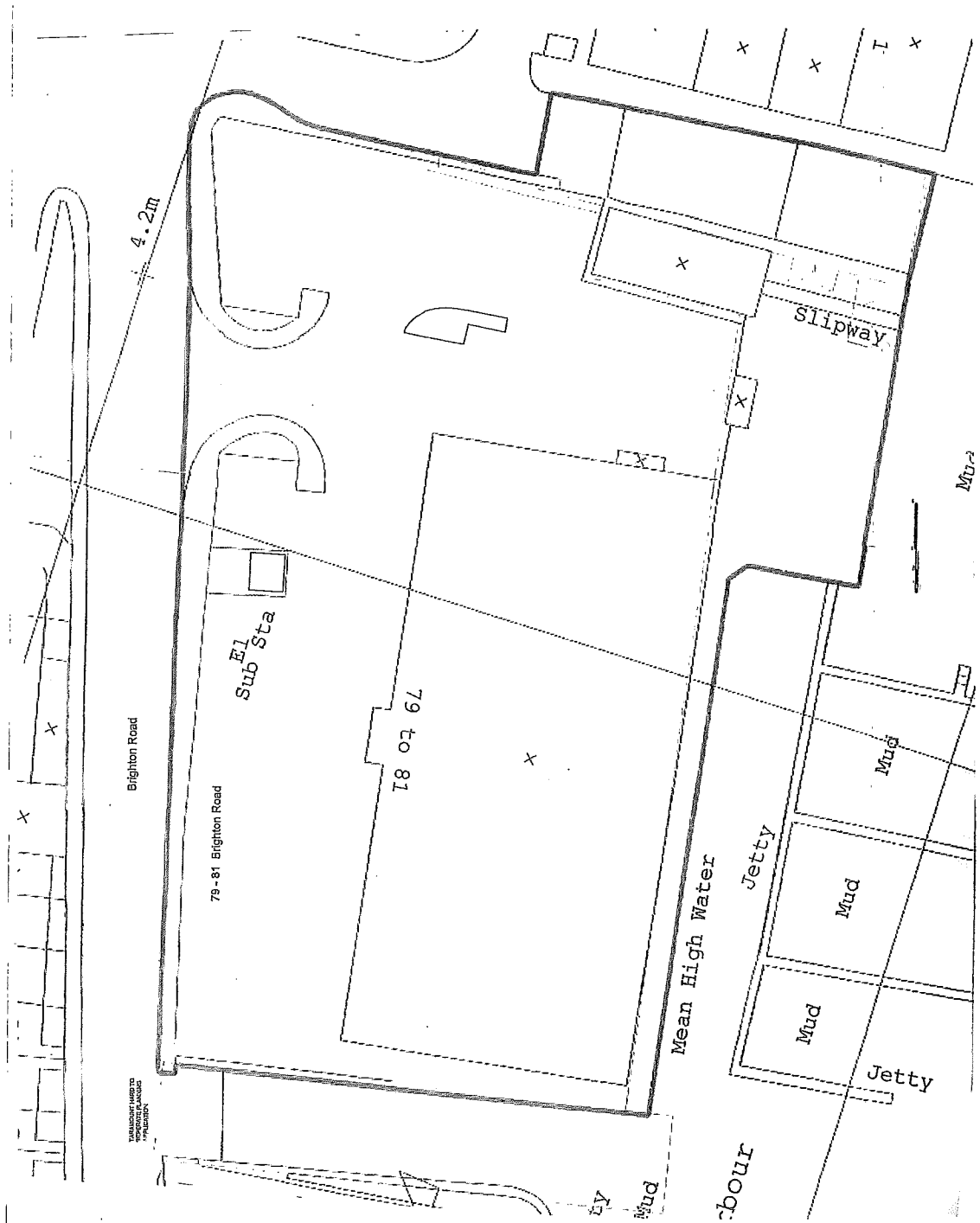
'the Site' means the land known as the Former Parcellforce Site at 79-81 Brighton Road, Shoreham-By-Sea, BN43 6RE registered at the Land Registry under title numbers WSX54850 and WSX322434 and shown for identification purposes edged red on the Plan.

'Specified Date' means the date upon which an obligation arising under this Agreement is due to be performed.

'Tarmount Hard Plan' means the Tarmount Hard plan attached to this Agreement.

### **3. Enabling Provisions**

- 3.1 This Agreement is made pursuant to s106 of the Act s111 of the Local Government Act 1972 and s1 of the Localism Act 2011 and all other enabling powers.
- 3.2 No person will be liable for any breach of this Agreement unless they hold an interest in that part of the Site in respect of which such breach occurs or held such an interest at the date of the breach.
- 3.3 If the Permission expires within the meaning of ss 91, 92, 93 of the Act or is revoked or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner or his successors in title this Agreement will cease to have effect.
- 3.4 Nothing in this Agreement will be construed as prohibiting or limiting any right to develop any part of the Site in accordance with a planning permission (other than the Permission) granted by the local planning authority or by the Secretary of State on appeal or by reference to him after the date of this Agreement.
- 3.5 Nothing in this Agreement will be binding on the individual purchasers of the Open Market Dwellings and the Affordable Housing Units or the Retail Units.
- 3.6 The obligations contained in clause 6 of this Agreement shall not be binding or enforceable against any mortgagee or chargee of a Registered Social Landlord





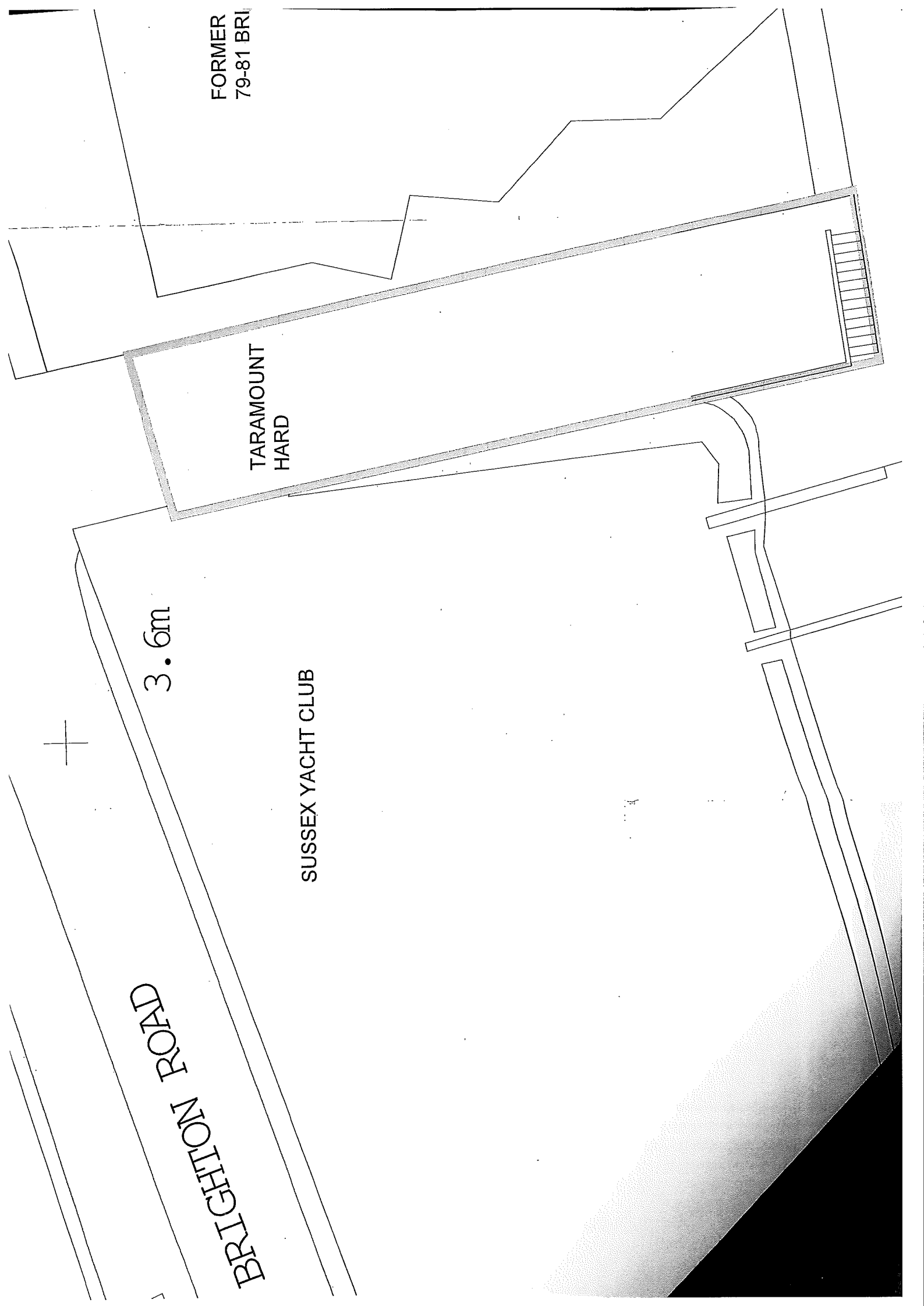
BRIGHTON ROAD

3.6m

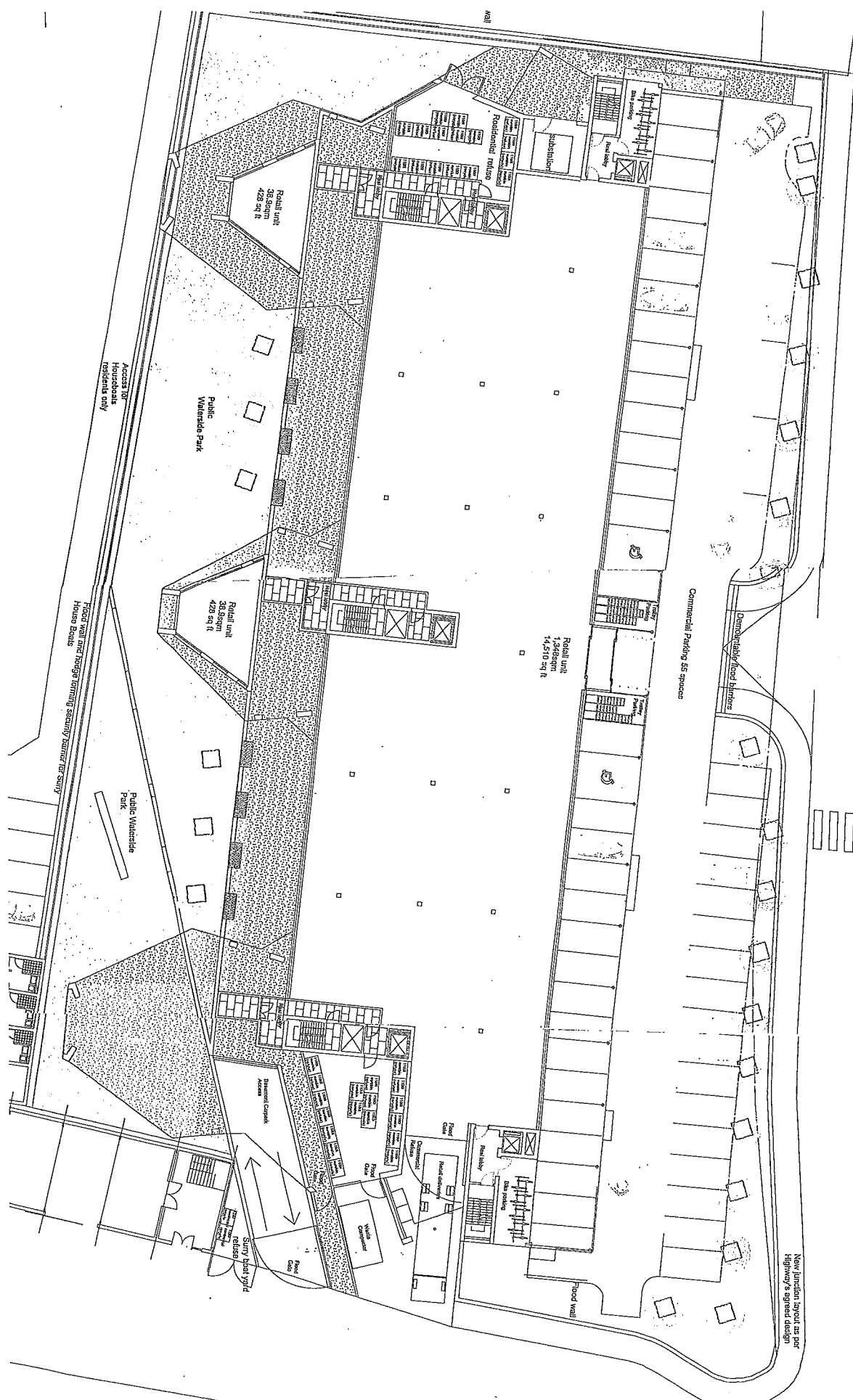
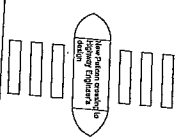
SUSSEX YACHT CLUB

TARAMOUNT  
HARD

FORMER  
79-81 BRI



T HARD TO  
PLANNING  
N



New junction layout as per  
Highway's spread design

Commercial Parking 55 spaces

Retail unit  
1,348sqm  
14,510 sq ft

Retail unit  
38,88sqm  
428 sq ft

Public  
Waterworks  
Park

Retail unit  
38,88sqm  
428 sq ft

Public Waterworks  
Park

Access to  
Houseboats  
residents only

Flood wall and bridge forming security barrier for Sully  
House Road

exercising any of its powers by or pursuant to its mortgage or anyone deriving title from such mortgagee.

- 3.7 Nothing in this Agreement, apart from the relevant provisions of clause 6, will bind a Registered Social Landlord to which the Affordable Housing Units are transferred pursuant to clause 6.

#### **4. Commencement**

This Agreement shall come into effect upon the date of this Agreement or grant of the Permission (whichever is the later) but the obligations in clauses 5 to 10 inclusive shall become effective only on the Commencement of the Development

#### **5. Repayment of Contributions**

- 5.1 The Council or the County Council as appropriate will on reasonable request issue to the party that paid the relevant Contribution due under this Agreement at the end of the Relevant Period an account in respect of the relevant Contribution detailing how the relevant Contribution has been expended by the Council or County Council.
- 5.2 If or to the extent that the relevant Contribution paid to the Council or County Council shall not have been spent by the Council at the date of the accounts referred to in Clause 5.1 above the Council or County Council shall on such date refund to the party that paid the relevant Contribution that was paid to the Council or County Council any unexpended part thereof together with compound interest thereon from the date of receipt of the respective Contribution by the Council or County Council to the date of repayment at the base lending rate of the HSBC Bank plc applicable at the date of repayment calculated on a day to day basis.
- 5.3 If at the date referred to in Clause 5.1 above the Council or County Council shall have entered into a contract or other legally binding obligation to expend any of the relevant Contributions paid to the Council or County Council or part thereof then the Council or County Council shall not be required to refund any part of the relevant element thereof paid to the Council or County Council required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the relevant Contribution to the Council or County Council in the manner set out in Clause 5.1 hereof and refund any unexpended part of the relevant Contribution in the manner set out in Clause 5.2 hereof.

**6. Affordable Housing**

- 6.1 The Owner covenants to provide the Affordable Housing Units in accordance with this Clause 6 and Schedule 3
- 6.2 The Owner shall not occupy cause to be occupied or permit occupation of more than 50% of the Open Market Dwellings until they have transferred to the Registered Social Landlord the Affordable Housing Units for a nominal sum granting a minimum of one hundred and twenty five (125) year leasehold interest in the Affordable Housing Units and on terms granting the Registered Social Landlord all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units
- 6.3 The Owner covenants to ensure that the Affordable Housing Units shall be managed at all times by the Registered Social Landlord in accordance with
- (i) the normal objects of such organisation
  - (ii) Schedule 3 of this Agreement; and
  - (iii) a separate Nomination Agreement that shall be entered into by the Registered Social Landlord with the Council before any of the Affordable Housing Units are first occupied
- 6.4 The Affordable Housing Units shall only be used for Affordable Housing save that this obligation shall be subject to the terms of clause 6.5 and shall not be binding on:
- 6.4.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
  - 6.4.2 any Chargee provided that the Chargee shall have first complied with the Chargee's Duty; or
  - 6.4.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 6.5 The Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge give not less than 2 months prior notice to the Council of its intention to dispose and:

6.5.1 in the event that the Council responds within 2 months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use reasonable endeavours to secure such transfer;

6.5.2 if the Council does not serve its response to the notice served under paragraph 6.5.1 within the 2 months then the Chargee shall be entitled to dispose free of the restrictions set out in this clause and

6.5.3 if the Council or any other person cannot within 2 months of the date of service of its response under clause 6.5.2 secure such transfer then provided that the Chargee shall have complied with its obligations under clause 6.5 the Chargee shall be entitled to dispose free of the restrictions set out in this clause 6

provided that at all times the rights and obligations in this clause 6.5 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

## **7. Highway Contribution and Fire and Rescue Contribution**

The Owner agrees;

- (a) pay to the County Council the Highway Contribution Index Linked towards the provision of sustainable highway improvements relating to the Site in the following instalments:
  - i) Fifty Seven Thousand Five Hundred Pounds (£57,500) prior to the occupation of the first Open market Dwelling; and
  - ii) The balance of Thirty Thousand Pounds (£30,000) within one year of the first open Market Dwelling occupation; and
- (b) on or before occupation of the 50<sup>th</sup> Open Market Dwellings to pay to the Council the Fire and Rescue Contribution of Two Thousand, Two Hundred and Fifty Seven Pounds (£2,257) Index Linked towards the provision of fire and rescue facilities for the Development.

- (c) Not to permit occupation of any Open Market Dwelling where such occupation would exceed the number stated as the trigger for payment in this clause 7 until the relevant contribution payment has been made.

**8. Public Art and Air Quality Monitoring Contributions**

8.1 The Owner agrees on or before occupation of the last Open Market Dwellings to pay on demand to the Council:

- (a) the Public Art Contribution as a contribution towards the costs of providing public art to serve the Development and Shoreham area; and
- (b) one fifth of the Air Quality Monitoring Contribution (being the sum of Nine Hundred Pounds £900) and annually thereafter to pay a further one fifth of the Air Quality Monitoring Contribution (being the sum of Nine Hundred Pounds £900 per year) until the Air Quality Monitoring Contribution has been paid in full towards the costs of providing air quality monitoring to serve the Shoreham area being necessary as a result of the Development

**9. Library and Education Contributions**

9.1 The Owner agrees on or before occupation of the 50<sup>th</sup> Open Market Dwellings to pay to the County Council

- (a) the Library Contribution as a contribution towards the costs of providing additional library capacity to serve the Shoreham area; and
- (b) the Education Contribution as a contribution towards the costs of providing additional capacity at schools serving the Shoreham area.

9.2 For the purposes of clause 5 of this Agreement the Relevant Period applicable to the Contributions paid to the County Council is ten (10) years commencing on the date of receipt of the relevant Contribution by the County Council.

9.3 Not to permit occupation of any Open Market Dwelling where such occupation would exceed the number stated as the trigger for payment in this clause 9 until the relevant contribution payment has been made.

**10. Management Company**

10.1 The Owner covenants with the Council prior to first occupation of the first Open Market Dwelling;

10.1.1 to establish a Management Company whose purpose will be to take over the maintenance and operation of the on Site flood defences including flood defence wall and flood gates and to manage and maintain the Public Realm Areas in perpetuity and in accordance with the schemes submitted to and approved by the Council in accordance with conditions attached to the Permission

10.1.2 to build the on Site flood defences, including flood defence wall and flood gates and maintain and operate the on Site flood defence wall and flood gates and Public Realm Areas in perpetuity and in accordance with the schemes submitted to and approved by the Council in accordance with conditions attached to the Permission provided that maintenance of the on Site flood defences including flood defence wall and flood gates shall take place annually and a structural condition survey shall take place every five years

10.1.3 to transfer to the Management Company the on Site flood defences including flood defence wall and flood gates and Public Realm Areas and the Management Company shall thereafter be responsible for the future maintenance and operation of the on Site flood defences including flood defence wall and flood gates and Public Realm Areas in perpetuity.

10.2 If at any time hereafter the Management Company dissolves or ceases to exist for whatever reason the Owner (which for the avoidance of doubt shall include all owners of the Site) shall form a new Management Company that shall be responsible for compliance with Clause 10 of this Agreement

11. **Tarmount Hard**

11.1 The Owner covenants to <sup>the Council to</sup> use its best endeavours to:



11.1.1 apply for planning permission within six months of the date of this Agreement for refurbishment works to upgrade Tarmount Hard.

11.1.2 commence development of any planning permission granted as a result of the planning application made at Clause 11.1.1 ("Tarmount Hard Permission") with the consent of the Yacht Club prior to the first occupation of the Open Market Dwellings but not prior to occupation of the Affordable Housing Units.

11.1.3 complete the works pursuant to the Tarmount Hard Permission within 18 months of the date development commenced pursuant to clause 11.1.2

## 11.2 The Yacht Club covenants to the Owner:

11.2.1 subject to the terms of the licence for works to be entered into by the Owner and the Yacht Club to allow access at all reasonable times to Tarmount Hard to the Owner or his agent to carry out the works to implement the Tarmount Hard Permission and to complete the works pursuant to the Tarmount Hard Permission

11.2.2 ensure that any transfer of the land subject to the Tarmount Hard Permission to a transferee includes a covenant requiring the transferee to comply with Clause 11 of this Agreement

## 12. Reasonableness

Save as otherwise provided in this Agreement any approval in writing, certificate, consent or expression of satisfaction to be given by the Council or County Council or the Yacht Club under this Agreement will not be unreasonably withheld or delayed.

## 13. Certificate and Payment Notice

The Owner agrees with the Council and the County Council:

- 13.1 where this Agreement imposes a requirement for the making of a payment or the undertaking of an act or the cessation of any activity on a Specified Date the Owner shall give to the Council or the County Council as appropriate notice of the Specified Date in accordance with Clause 17 not more than seven days after such Specified Date;
- 13.2 if the Owner fails to give the notice required the Council or the County Council as appropriate shall be entitled in its absolute discretion to determine the Specified Date and shall give notice to the Owner of its determination; and
- 13.3 to make any and all payments due under this Agreement to the Council or the County Council as appropriate and to attach a fully completed Payment Notice with each payment.

## 14. Index Linked

The Owner agrees with the Council and the County Council that any sums payable by the Owner under this Agreement shall be increased by the application of the following formula:



$A = (B \times C) \text{ divided by } D$

Where A is the sum actually payable on the Specified Date  
B is the original sum mentioned in this Agreement  
C is the General Index of Retail Prices (All items) for the month two months before the Specified Date  
D is the General Index of Retail Prices (All items) for the month two months before the date of this Agreement  
C/D is equal to or greater than 1

**15. Interest**

The Owner agrees with the Council and County Council to pay interest on sums due to the Council or County Council under this Agreement but not paid on the Specified Date from the Specified Date until actual payment calculated at the rate of interest 2% above the National Westminster Bank plc's base rate applicable at the actual date of payment

**16. Costs**

The Owner covenants with the Council and County Council to pay their respective legal costs incurred in preparing and entering into this Agreement

**17. Notices**

Any notice required by this Agreement ("the Notice") shall be in writing and in the case of the Council addressed to the Executive Head of Planning Regeneration and Wellbeing and in the case of the County Council to the Executive Head of Planning Regeneration and Wellbeing at the address herein

The Notice may be sent by one of the following means and shall be deemed to be served as described unless the actual time of receipt is proved

- (a) by first class post deemed served two working days after posting
- (b) by second class post deemed served three working days after posting

- (c) through document exchange deemed served on the first working day after the day on which it would normally be available for collection by the addressee
- (d) by facsimile at the time of successful transmission
- (e) by email at the time of successful transmission

**18. General**

The parties agree that:

- 18.1 nothing in this Agreement constitutes an obligation to grant planning permission;
- 18.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from the Council in the exercise of any other statutory function;
- 18.3 nothing in this Agreement fetters or restricts the exercise by the Council of any of their powers;
- 18.4 the obligations contained in clauses 6 to 10 inclusive are planning obligations for the purpose of s106 of the Act and the obligation in clause 11 is a contractual obligation between the said parties;
- 18.5 this Agreement constitutes a deed;
- 18.6 this Agreement is enforceable by the Council;
- 18.7 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999; and
- 18.8 this Agreement shall be registrable as a local land charge by the Council.

**IN WITNESS** the parties have executed this Agreement as a Deed

## Schedule 1 – Payment Notice

### Payment of Monies due under a Section 106 Agreement

Please answer all the questions

1. Payment to be made by/on behalf of.....
2. Land at:.....
3. Agreement dated:.....
4. Planning application reference number (where applicable)
5. Obligation in Agreement

(a)	clause no.	
(b)	contribution towards	
(c)	amount of contribution due	
(d)	date upon which contribution is due	
(e)	amount of contribution enclosed	

## **Schedule 2 – The Permission**

WN Developments Limited

13 College Road

Bedford

MK42 9PL

PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

APPLICATION NUMBER: AWB/0511/12

Details of Development

Demolition of existing warehouse to facilitate new mixed-use development of 132 dwellings (Use Class C3) (comprising 32 x 1-bed flats, 87 x 2-bed flats and 13 x 3-bed flats of which 27% are affordable units), a 1265sqm foodstore (Use Class A1) and 121sqm of ancillary commercial floorspace (Use Classes A1, A2, A3, A5 and B1) in a 5-7 storey building with 150 parking spaces plus cycle spaces at basement level and at the front of the site, new vehicular access to serve the foodstore from Brighton Road, access to residential units via Surry Hard, improvements to the existing river wall, public hard and boathouse and new landscaping.

## Location of Development

79 - 81 Brighton Road Shoreham-By-Sea West Sussex BN43 6RE

In pursuance of their powers under the above-mentioned Act and Order the Council hereby notify you that they PERMIT the above development, in accordance with the application and relevant correspondence registered on 18th April 2012.

This is for reasons stated on the schedule overleaf and subject to compliance with the conditions specified thereon.

James Appleton

Executive Head of Planning, Regeneration and Wellbeing

## SCHEDULE

### Reasons for Granting Permission

01. The principle of an architecturally-striking development of this scale on this site has already been established and it is not considered that the differences between the approved scheme and the current proposal are significant in terms of scale, design or footprint. The development is within the built-up area and would help meet the need for additional housing without detracting from the existing local urban environment, including the adjoining Conservation Area and listed buildings. It can take place without resulting in unacceptable detriment to the amenities of neighbouring properties, without detracting from highway safety and without unacceptable risk from flooding. It would consequently not conflict with the relevant saved policies of the Adur District Local Plan (AG1, AH2, AH5, AB3-4, AB11, AB23, AB25-27) and the policies of the National Planning Policy Framework.

### Conditions

01. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plans:-

PLA3/001 Rev A (Site Location Plan) received 5 September 2012

PLA1/010 Rev A (Existing Site Plan) received 5 September 2012

PLA1/020 Rev A (Existing Elevations) received 5 September 2012

PLA1/201 C (South Elevation) received 24 May 2013

PLA1/202 H (North Elevation) received 15 May 2013

PLA1/203 E (East Elevation) received 24 May 2013

PLA1/204 G (West Elevation) received 15 May 2013

PLA1/300 H (Section AA) received 28 May 2013

PLA1/099 E (Basement Plan) received 28 May 2013

PLA1/100 M (Ground Floor Plan) received 28 May 2013



PLA1/101 G (First Floor Plan) received 28 May 2013

PLA1/102 F (Second Floor Plan) received 28 May 2013

PLA1/103 F (Third Floor Plan) received 28 May 2013

PLA1/104 F (Fourth Floor Plan) received 28 May 2013

PLA1/105 H (Fifth Floor Plan) received 28 May 2013

PLA1/106 D (Sixth Floor Plan) received 28 May 2013

PLA1/107 E (Roof Plan) received 28 May 2013

WN101/Figure 3.3C (Proposed Improvements to Sunny Hard Junction) received 27 February 2013

42285/S401 Rev A (Flood Defence and Drainage Strategy Site Layout) received as part of Flood Risk Assessment received 14 December 2012

PLA1/100 Rev K (Ground Floor Plan with original approved building outline overlaid) received 21 February 2013

11003/PLA1 (Height Comparison Plan) received 3 June 2013

Reason: For the avoidance of doubt and in the interests of proper planning.

03. No development shall take place (excluding hoardings and associated site security) until details of boundary walls (including retaining walls), railings, fences and gates have been submitted to and approved in writing by the Local Planning Authority and the building shall not be occupied until these have been completed in accordance with the approved details.

Reason: In the interests of amenity and to comply with saved policies AG1 and AH2 of the Adur District Local Plan.

04. The building shall not be occupied until the car and cycle parking spaces and access facilities shown on the submitted plans (including those designated for use by residents of the Surry Houseboats) have been provided in accordance with construction details to be submitted to and approved in writing by the Local Planning Authority. The areas so provided shall not thereafter be used for any purpose other than access and parking of vehicles and cycles incidental to the use of the proposed development.

Reason: In the interests of amenity and highway safety and having regard to the National Planning Policy Framework.

05. The building hereby permitted shall not be occupied until space has been laid out within the site as shown on the submitted plans for the turning of vehicles clear of the public highway and such spaces shall not thereafter be used other than as turning areas.

Reason: In the interests of highway safety and having regard to the National Planning Policy Framework.

06. The accesses from the site to the A259, including the built-out at the Surry Hard/A259 junction, shall be designed, laid out and constructed with curb radii, visibility splays and sight lines in all respects in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority before first occupation of the residential development hereby approved. Thereafter such visibility splays and sight lines shall be kept clear of any obstruction.

Reason: In the interests of highway safety and having regard to the National Planning Policy Framework.

07. The building hereby permitted shall not be occupied until the existing vehicular access to the site has been stopped up permanently and obliterated (including kerbing and footway reinstatement works) in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and having regard to the National Planning Policy Framework.

08. The existing public rights of way to Surry Hard and Tarmount Hard shall remain undisturbed unless and until legally stopped up or diverted prior to the commencement of any of the development hereby permitted. The alignment of the public rights of way shall be protected by being clearly demarcated, signed and fenced, as may be approved by the Local Planning Authority, throughout the course of the development.

Reason: To safeguard the rights of the public.

09. No construction work shall be carried out on site unless there is available within the site in accordance with details approved by the Local Planning Authority provision for temporary parking and loading/unloading of all Contractors' vehicles, and for Contractors' buildings, plant, and stacks of materials and such provision shall be retained for these purposes throughout the period of work on the site.

Reason: In the interests of highway safety and amenity.

10. No work shall be carried out on the site unless and until an effective vehicle wheel-cleaning facility has been installed in accordance with details approved by the Local Planning Authority and such facility shall be retained in working order and operated at all times during the period of construction work to ensure that vehicles do not leave the site carrying earth, mud or other material on their wheels in a quantity which causes a nuisance or hazard on the road system in the locality.

Reason: In the interest of highway safety.

11. No development (except enabling works) shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. This shall include the planting of replacement trees along the A255 frontage, such trees being 5m-6m high and 18cm-20cm trunk girth at the time of planting. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. For the purposes of this condition, "Enabling Works" shall mean operations comprising site assessment and remediation, archaeological investigation, demolition, site clearance and preparation, diversion and laying of services, the erection of fences and hoardings and the construction of temporary access or service roads.

Reason: In the interests of visual amenity and the environment and to comply with saved policies AB25-27 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

12. The existing sycamore trees subject to TPO on the site shall not be removed unless and until a contract for the carrying out of the redevelopment scheme hereby permitted has been made.

Reason: In the interests of visual amenity and the environment and to comply with saved policies AB25-27 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

13. No development of any part of the scheme shall be carried out unless and until a schedule and samples of materials and finishes to be used for the external walls (including windows, doors, balconies, fins) and roofs of that part of the development (including the boathouse) has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to comply with saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

14. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority

Reason: The site is within an area of archaeological significance and it is important that it is recorded by excavation and to comply with saved policy AB1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

15. No external lighting or floodlighting shall be installed except in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and to comply with saved policy AP9 Adur District Local Plan and the policies of the National Planning Policy Framework.

16. No development shall be carried out until the existing warehouse building on the application site at the date of this permission has been demolished, the debris removed from the site and the site cleared.

Reason: In the interests of amenity and to comply with saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

17. Unless the Local Planning Authority otherwise gives its prior written approval, if either of the smaller commercial units at the rear of the building is used as a restaurant /café (Class A3), it shall not be open for trade or business other than between the hours of 8 AM and 11 PM and there shall be no external illumination on the premises outside these specified hours. All activity shall cease at the restaurant/cafe premises by 11.30 PM daily unless the Local Planning Authority otherwise gives its written approval.

Reason: In the interests of amenity and to comply with saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

18. No restaurant/café shall operate from the commercial units shown on the approved plans site until satisfactory means of extract ventilation (including the filtration and disposal of cooking odours from the kitchens and including necessary sound attenuation measures) have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The system as approved and installed shall thereafter be retained in effective working order and operated at all times when cooking is taking place.

Reason: In the interests of amenity and to comply with policy AG1 of the Adur District Local Plan.



19. The commercial floorspace shown on the ground floor plan hereby approved shall only be used for purposes within Class A1, A2, A3 and B1 (a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any equivalent provisions in any Statutory Instrument revoking and re-enacting that Order with or without modification) only and for no other purposes unless the Local Planning Authority otherwise gives its written approval.

Reason: In the interests of amenity and to comply with saved policies AH2 and AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

20. The development hereby permitted shall not be commenced until a scheme for protecting the occupiers of the proposed flats fronting Brighton Road from road traffic noise and those on the west side of the building from noise from the adjoining boat yard has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before the building is occupied.

Reason: In the interests of amenity and to comply with saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

21. Prior to the commencement of development, details of the replacement river wall, the floor level of the proposed building and alterations to the ground levels of the site shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in strict accordance with such details as approved and no occupation of the buildings shall take place until the approved works have been completed.

Reason: In the interests of amenity, the environment and flood risk avoidance, having regard to saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

22. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure (other than temporary site hoardings and associated security) shall be erected except as approved under condition 03 of this permission unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: In the interests of amenity and the environment and to comply with saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

23. No external radio or TV aerial shall be erected or affixed on any individual flat and provision shall be made for combined aerial facilities to serve the development hereby permitted.

Reason: In the interests of visual amenity and to comply with saved policy AH2 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

24. No buildings on the site shall be occupied until the associated facilities for storing refuse and waste, including for waste that can be recycled, have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity.

25. The development hereby permitted shall not be commenced until details of the proposed foul and surface water drainage and means of disposal (including for controlling drainage during the construction period) have been submitted to and approved by the Local Planning Authority and the buildings shall not be occupied until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority, in consultation with Southern Water. There shall be no discharge of contaminated drainage into either ground water or any surface waters whether direct or via soakaways.

Reason: To ensure adequate drainage and to comply with saved policy AP4 of the Adur District Local Plan the policies of the National Planning Policy Framework.

26. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from the proposed car parks or other hardstandings shall be passed through trapped gullies designed and constructed to have a capacity and details compatible with the site being drained. Roof water from buildings shall not pass through any such trapped gully.

Reason: To safeguard against pollution having regard to the policies of the National Planning Policy Framework.

27. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the local planning authority) shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the local planning authority:-

- 1) A site investigation scheme, based on the completed Phase 1 Geotechnical and Geo-environmental Site Investigation, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 2) The results of the site investigation and detailed risk assessment referred to in 1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 2) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure the protection of controlled waters from potential contamination relating to the former activities of the site and to safeguard public health having regard to the policies of the National Planning Policy Framework.

28. No occupation of any part of the development hereby approved shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure any remediation, if deemed necessary, is satisfactorily completed for the protection of controlled waters and public health having regard to the policies of the National Planning Policy Framework.

29. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with, and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that any contamination identified during the demolition or construction works is fully characterised and assessed in order to safeguard against pollution of controlled waters and risk to public health and safety having regard to the policies of the National Planning Policy Framework.

30. No development shall commence until method statements have been submitted to and approved in writing by the Local Planning Authority relating to:-

-Details of land reclamation, including the nature of the material to be imported and the methods used;

-Construction and working methods, including site access, in the area immediately adjacent to the river;

-Timings and methods for any piling works; Pressure or impact piling shall only be used at low water, when the piling area is clear of water. If pressure/impact piling is to be used, its use shall be restricted to December - June (to miss the incoming sea trout run through the harbour) and ideally at low water (when the piling area is clear of the water so that piles are not driven through the water column). Auger Piling may be used between the months of September and November.

Reason: A method statement is necessary to ensure that any impacts upon the environment, including the estuary and other habitats, are minimised, having regard to the policies of the National Planning Policy Framework.

31. Details of the proposed on-site renewable energy generation methods and measures for the efficient environmental performance of the building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development and shall be completed prior to occupation of the building and thereafter maintained.

Reason: In the interests of amenity and sustainability having regard to the policies of the National Planning Policy Framework.

32. The building hereby approved shall be no higher than 23.93m AOD as shown on the approved plans.

Reason: the interests of amenity and the environment and to comply with saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

33. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (FRA) ref: 42285 Issue 3, dated December 2012, and the following mitigation measures detailed within the FRA:

- 1) Finished floor levels of residential units are set no lower than 5.57m above Ordnance datum (AOD).
- 2) A scheme for managing surface water, including arrangements for the storage of surface water during periods when system may be tide locked

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with the principles of the National Planning Policy Framework.

34. The development hereby permitted shall not be commenced until such time as the following have been submitted to, and approved in writing by, the local planning authority:

1) Design details of the proposed on site flood defences, including the flood gates. This should include confirmation that the proposed gates are as few in number as possible.

2) A scheme for the maintenance and operation of the on-site flood defence measures over the lifetime of the development, with assurances in place that the relevant parties have formal responsibility for these structures.

The approved flood defences shall be installed and be operational prior to first occupation of the building and they shall be maintained in accordance with the approved details in (2) above thereafter.

Reason: To demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere in accordance with the principles of the National Planning Policy Framework.



35. The development hereby permitted shall not commence until a Flood Risk Emergency Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be implemented on first occupation of the building and it shall thereafter be monitored annually and the findings submitted to the local planning authority for review and any necessary new measures or interventions shall be implemented accordingly.

Reason: To ensure the future occupiers of the building are safe in the event of a flood event having regard to the policies of the National Planning Policy Framework.

36. No development shall start until a Construction Management Plan, to include details of:

1: Public Safety, Amenity and Site Security

2: Operating Hours, Noise and Vibration Controls

3: Air and Dust Management

4: Stormwater and Sediment Control

5: Waste and Materials Re-use

6: Traffic Management

has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Plan.

Reason: In the interests of amenity and the environment having regard to the policies of the National Planning Policy Framework.

37. Prior to the commencement of the development the applicant shall submit for the written approval of the Local Planning Authority a Travel Plan in accordance with the aims and objectives of the National Planning Policy Framework and in general accordance with the County Council's guidance on Travel Plans. The applicant shall then implement the approved travel plan on occupation of the 50th dwelling. The Travel Plan shall thereafter be monitored annually and the findings submitted to the local planning authority for review and any necessary new measures or interventions shall be implemented accordingly.

Reason: In order to encourage sustainable methods of travel in accordance with the aims of the National Planning Policy Framework.

38. No signage shall be displayed on the building or within the site without the prior consent in writing of the local planning authority.

Reason: In the interests of amenity having regard to saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

39. No cables, wires, aerials, pipework, meter boxes, flues, plant, equipment or machinery shall be installed externally on the building unless approved in writing by the local planning authority.

Reason: In the interests of amenity having regard to saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

40. Prior to first occupation of the building hereby approved electric car charging points shall be provided within the site in accordance with details to be submitted to and approved in writing by the local planning authority. The car charging points shall be retained and be made available for use thereafter.

Reason: To encourage sustainable transport measures with the aim of improving air quality having regard to the policies of the National Planning Policy Framework.

41. No deliveries to, or despatch of deliveries from, the commercial units hereby approved shall take place except between the hours of 7am and 7pm on Mondays to Fridays and 8am and 1pm on

Saturdays. There shall be no deliveries of despatch of goods at any time on Sundays or Public Holidays.

Reason: In the interests of amenity having regard to saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

42. Delivery vehicles to the commercial units hereby approved shall use acoustic friendly reversing alarms only in accordance with details to be submitted to and approved in writing by the local planning authority

Reason: To safeguard residential amenity having regard to saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

43. The development shall not be occupied until public access to the riverfront, including the provision of a stepped way to Sunnyside Hard, and the public waterside park have been provided in accordance with detailed plans to be submitted to and approved in writing by the local planning authority.

Reason: To ensure the development provides public access to the waterfront in accordance with saved policy AT11 of the Adur District Local Plan.

44. The development shall not be occupied until the proposed improvements to Surry Boat Yard (specifically the provision of new toilet and shower facilities, post room and refurbished boat yard building) have been provided in accordance with detailed plans to be submitted to and approved in writing by the local planning authority.

Reason: To ensure the development incorporates improvements to the existing boat yard in the interests of the visual amenities of the locality having regard to saved policies AG1 and AB16 of the Adur District Local Plan.

45. No work for the implementation of the development hereby permitted shall be undertaken on the site other than between the hours of 8am and 6pm Monday to Friday and 8.30am and 1pm on Saturdays. There shall be no work on Sundays or Public Holidays.

Reason: To safeguard the amenities of the occupiers of neighbouring properties having regard to saved policy AG1 of the Adur District Local Plan and the policies of the National Planning Policy Framework.

## Informatives / Notes to Applicant

01. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

02. The site incorporates/is bounded by the River Adur, a main river under the jurisdiction of the Environment Agency. Any works whatsoever in, over, or under the channel of this watercourse on its banks or within 15 metres from the landward toe of the tidal wall, would require the prior consent of the Environment Agency under Section 109 of the Water Resources Act 1991 and the Southern Region Byelaws.

03. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Adkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel. 01962 858688) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

### **Schedule 3 – Affordable Housing Units**

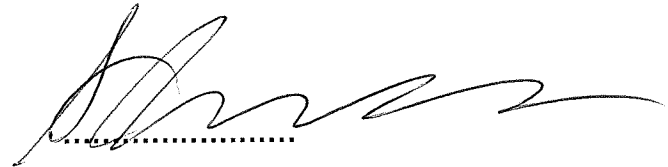
The Affordable Housing Units shall be provided on the following basis (unless otherwise agreed with the Council in writing):

36 Shared Ownership Units comprising 8 one bedroom flats and 24 two bedroom flats and 4 three bedroom flats on the Site

EXECUTED as a DEED by

**W. N. DEVELOPMENTS LIMITED**

acting by a Director:

  
Director

In the presence of: MICHELLE NOLAN

Signature of Witness: Michelle Nolan

Name (in BLOCK CAPITALS): MICHELLE NOLAN

Address: 13 COLLEGE RD  
BEOFORD  
MK42 9PH

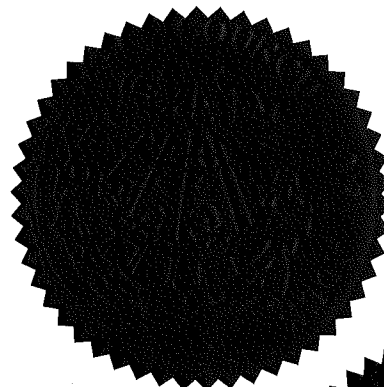
THE COMMON SEAL OF  
ADUR DISTRICT COUNCIL

was hereunto affixed in the presence of:

Authorised Signatory



For  
Solicitor to the Council

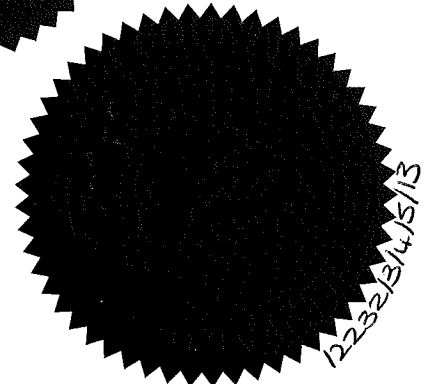


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SEALED with the COMMON SEAL of  
WEST SUSSEX COUNTY COUNCIL

in the presence of:






12232/13/4/5/13

**SUSSEX YACHT CLUB LIMITED**

acting by a Director:

  
PATRICIA HALL  
Director

In the presence of:

Signature of Witness: S. Cruickshanks

Name (in BLOCK CAPITALS): S. CRUICKSHANKS

Address: HUGH GATES SOLICITORS  
11-25 HIGH STREET  
SHOREHAM-BY-SEA  
WEST SUSSEX  
BN43 5EE  
TEL: 01273 461 381  
FAX: 01273 465 332